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AUTHOR McConnell, Stephen C.; Swain, Jennifer E.
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ABSTRACT

The number of reported hate crimes has steadily increased. Racial prejudice motivates most of these crimes, which typically are committed by a small, loosely associated group of adolescent offenders. In addition to the physical pain and material loss associated with these crimes, they can be psychologically devastating to the victim. New approaches to responding to hate crimes have been developed, including penalty-enhancement strategies and educational programs for perpetrators. Efficacy of the proposed approaches in modifying the attitudes and behaviors of perpetrators is questionable, and many of these programs do little to address the needs of the victims. Victim-offender mediation is explored as a strategy for intervening between the adolescent offenders who commit racially motivated hate crimes and the victims of these offenses. It is suggested that in comparison to the current responses to hate crimes, this approach will offer greater benefits for victims, offenders, and society. (Contains 14 references.) (Author/JDM)

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VICTIM-OFFENDER MEDIATION WITH ADOLESCENTS WHO COMMIT HATE CRIMES

Stephen C. McConnell

Jennifer E. Swain

School of Professional Psychology

Wright State University

Dayton, Ohio

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Abstract

In recent years, the number of reported hate crimes has continued to rise steadily. The majority of these offenses is motivated by racial prejudice and is typically committed by a small, loosely associated group of adolescent offenders. Hate crimes represent offenses that exert a uniquely detrimental impact on the individual victim, members of the targeted group, and larger society. In addition to the physical and material losses that may occur as the result of a hate crime, these offenses are often psychologically devastating, terrorizing individuals and communities while simultaneously tearing at the foundation of intergroup relationships. In order to address this issue, new approaches to responding to hate crime have been developed, including penalty-enhancement strategies and educational programming for perpetrators. However, the efficacy of the proposed approaches in modifying the attitudes and behaviors of perpetrators is questionable. Of equal importance, many of these programs do little or nothing to address the needs of victims. In this paper, victim-offender mediation is explored as a strategy for intervening with adolescent offenders who commit racially motivated hate crime and the victims of these offenses. It is hypothesized that, in comparison to the current responses to hate crimes, this approach will offer greater benefits for victims, offenders, and larger society, both in the short and long term.

According to Garofalo (1997), hate crime or "hate victimization" is defined as "harm inflicted on a victim by an offender whose motivation derives primarily from hatred directed at some apparent characteristic of the victim." The number of reported hate crimes continues to rise steadily (Anti-Defamation League, 1994). In 1996, there were over 8,000 incidents of hate crime reported nationwide, with 61.6% motivated by racial bias, 15.9% motivated by religious bias, 10.7% due to ethnic bias, and 11.6% motivated by bias based on sexual orientation (FBI, 1996). In addition to those directly targeted as victims, hate crime represents a social offense that terrorizes the larger group of which the victim is a member and individuals belonging to other subgroups, while simultaneously tearing at the foundation of intergroup relationships. According to Maxwell and Maxwell (1995) the majority of racially motivated bias crimes reported in the United States are committed by Caucasians and African Americans. Contrary to popular belief, the perpetrator of a hate crime is typically not the member of an organized hate group (Levin & McDevitt, 1993). Instead, hate crimes are usually committed by either a single individual or a loosely associated group of people, most commonly a group of two or more Caucasian male perpetrators who are under the age of 21 years old and are often in their teens (Garofalo, 1997).

Several explanations have been offered for hate crime, including group process variables, competition for power, and the process of scapegoating. In evaluating each theoretical position, it appears that no single explanation for hate crime is complete. Rather, each may play a part in the process. Prior to committing the hate crime, would-be perpetrators may demonstrate a desire for increased personal power along with a tendency to view this desire in terms of zero-sum competition. At this point, individuals

may act out aggressively, especially when threatened in some way. This acting out may not necessarily be directed at a particular group but may be more generalized, impacting interactions with family members, peers, and authority figures. However, when such zero-sum thinking coincides with the existence of a socially approved target who may serve as the scapegoat, a hate crime may be more likely to occur. The presence of an accepted target allows perpetrators to act with less concern for punishment and retaliation. Finally, as described above, hate crimes are often committed by groups of adolescents. Therefore, issues of group conformity and diffusion of responsibility may be of greatest relevance after a target has been identified and the crime initiated.

Although the physical damage suffered by the victims of hate crimes is significant, the psychological impact of these acts often produces equal or even greater devastation. Herek, as cited in Mjoseth (1998) reports that victims of hate crimes may take as many as three years longer than victims of non-bias crimes to fully recover from the psychological impact of their victimization. The emotional reactions of hate crime victims appear to be similar to those of rape victims in that the offense is deeply personal and leaves the individual with a feeling of permanent vulnerability (Kelly, 1993). In comparison to victims of non-bias crimes, victims of hate crime report higher levels of fear, increased trauma symptoms, and are more likely to believe that the crime had a major impact on their life in both the short and the long term (Garofalo, 1997). The behavioral reactions of victims of hate crime also differ from those of victims of non-bias crime. In response to the offense, those who are the target of a hate crime are more likely to relocate to another neighborhood or town, demonstrate decreased social participation, and take active steps to prevent future attacks, including purchasing weapons, buying

home security devices, and adopting new safety precautions for their children (Barnes & Ephross, 1994).

Taken together, the literature indicates that hate crime victimization, as compared to non-bias crime, is associated with increased psychological devastation. The more harmful impact of hate crime is related to three major factors. First, hate crimes target the personal identity of the victim, causing them to experience an increased sense of personal vulnerability to future attack. Second, hate crime victims are targeted based on their perceived membership in a particular subgroup, causing all group members to feel threatened and vulnerable. Finally, hate crime victimization is associated with greater psychological devastation because its effects ripple out to the larger community, breeding distrust and hatred between groups and potentially sparking a cycle of retaliatory offenses.

Given the uniquely detrimental impact of hate crimes, specialized responses to these acts have been proposed, including penalty enhancement. Although this response is well intentioned, it may not be very effective in preventing future crimes and aiding in the recovery of victims. Cognitive dissonance may be relevant to the reactions of perpetrators of hate crimes who receive an enhanced penalty for their offense. As described above, there may be several reasons that underlie the enactment of hate crime, including ingroup conformity, perceived competition for limited resources, and scapegoating. The hate which perpetrators express toward the outgroup may exist on only a "superficial" level (Levin & McDevitt, 1993). Given that the offender's negative beliefs about the outgroup may not be strong or well formed, reacting with a heavy punishment may be a risky approach. In this situation, the perpetrator would be faced with the fact that they committed a crime that warranted severe punishment.

Simultaneously, they would be aware, on some level, that their victim was an innocent person who represented a group that was only superficially disliked by the perpetrator. The individual confronted with this mismatch between their beliefs and behavior would be likely to experience cognitive dissonance. Given this state of discomfort, it is possible that the offender would realize the wrongfulness of their behavior and refrain from participation in future crimes. However, given the influence of the immediate peer group, along with the impact of covert racism in the larger society, the perpetrator may conclude that his actions were justified, and his negative attitude toward the outgroup may be strengthened.

In response to the problems associated with traditional or penalty-enhanced punishment, alternative programming has been proposed. One general approach is educational programming. This may include such activities as having offenders read a book about the targeted group or a related topic and write a report on the material, involvement in a discussion of the impact of their crime on victims, participation in a cultural event sponsored by members of the outgroup, or community service directed toward the victim's subgroup. While these options may be beneficial, a major problem is the lack of organized programs which utilize these types of activities. More importantly, these programs, like traditional options, do little to address the concerns of the victim.

Victim-Offender Mediation as a Response to Hate Crime

As an alternative to involvement in the traditional criminal justice system, victim-offender mediation may offer several advantages for those individuals who have been the targets of hate crime. Victims of racially motivated crime, because they are members of nondominant groups of society, may tend to experience disempowerment in their daily lives. These individuals are more likely to be cast according to stereotypes, which are often internalized, leading to feelings of humiliation and self-hatred (Matsuda, et al.,

1993). As the victim of a hate crime, these individuals may experience an even greater sense of powerlessness, knowing that they did nothing to provoke the assault and can do nothing to prevent themselves from being the target of future crimes. Finally, in the traditional justice system, victims of hate crime often become silent partners in the prosecution of their perpetrators (Umbreit, 1995). The totality of this experience may leave victims with an overwhelming sense of helplessness.

Utilizing the victim-offender approach may be an important first step in addressing the needs of victims. Rather than passively observing as meaningful decisions are made regarding the fate of the individual who violated them, victims take an active role in the process. Victims often report that their involvement in mediation produces a feeling of empowerment (Umbreit, 1994). It is hoped that this experience of increased personal control may help to alleviate the sense of powerlessness encountered by many victims of hate crime.

A second potential benefit to hate crime victims who participated in mediation is the opportunity to express their feelings and ask questions. Victims of hate crime often experience a sense of violation similar to those who have been raped. In victim-offender mediation, individuals are given the opportunity to express these strong emotions directly to the perpetrator. In addition, because hate crimes are senseless in nature, with targets often selected at random, it is less likely that victims may have even more unanswered questions than in the case of non-bias crime. During mediation, victims are able to ask these questions, potentially helping to reduce the anxiety that comes with not knowing.

A final benefit to victims of hate crime who participate in mediation is that they receive personal restitution. On one level, receiving restitution is of practical benefit. Victims whose property may have been damaged are given the financial resources to

restore these items. On a psychological level, being offered an apology and receiving restitution may help to restore the victim's personal dignity. These actions serve as an acknowledgement that the loss suffered by the victim was significant. These acts may allow victims to experience a sense of closure, helping them to move along with their lives more quickly.

Utilizing the victim-offender approach may also be effective in addressing the needs of the offenders and preventing them from committing future hate crimes. First, victim-offender mediation may be helpful in as much as it serves to separate the individual from the group context of their offense. Because hate crimes tend to be perpetrated by a group of individuals, diffusion of responsibility occurs, allowing those involved to deny their personal role in the crime. However, the mediation procedure is not typically conducted with a group of perpetrators but with a single offender. In this situation, the perpetrator is confronted with their own accountability. As they tell their story to the mediator and to the victim, they may recognize the influence of their peers, but they are ultimately made aware of their own role. Likewise, the individual bears the responsibility for fulfillment of the restitution agreement that is formed with the victim.

Many perpetrators who participate in victim-offender mediation report that they experience a positive change in their attitude toward the victim (Umbreit, 1994). Therefore, victim-offender mediation may be effective in modifying the attitude of racial prejudice that perpetuated the hate crime. One factor which may contribute to this change is empowerment of the victim. Prior to committing the hate crime, the perpetrator often holds a distinct image of the victim. As a member of a nondominant racial group, the victim may be regarded as an insignificant member of society who is less than human. The offender may receive the message, either explicitly or implicitly, that doing harm to someone like the victim is not really a crime. However, these beliefs may be challenged

by the role of the victim in the mediation setting. Empowering victims by inviting them to participate in the process of creating a restitution agreement delivers a message to offenders that these individuals are valued members of society.

Changes in the perpetrator's attitude toward the victim may also be produced through contact with that individual under particular circumstances. According to the Contact hypothesis, positive changes in intergroup relationships result when group members are provided with the opportunity for contact which meets three criteria (Gaertner et al., 1996). The first criterion that must be met is that the individuals are involved in a cooperative interaction. This criterion is similar to the strategy of creating interdependency between groups as a means of reducing prejudice (Aronson, 1992). In victim-offender mediation, the parties are engaged in the cooperative task of creating a restitution agreement and both individuals must communicate with one another in an appropriate manner. The second criterion, which must be met under the Contact hypothesis, is for individuals from the two groups to become personally acquainted with each other. Again, the process of victim-offender meets this criteria. At the outset, dialogue between the parties is encouraged and both parties are given the opportunity to share their personal experiences of the crime. Finally, the third criterion that must be met in order for intergroup contact to be effective is that norms that support an egalitarian relationship must be established. This criterion is also met within the framework of victim-offender mediation. The mediator helps to establish these norms by treating both parties with respect, approaching them in a non-judgmental fashion.

Modifications in the perpetrator's attitude toward the victim may also be related to the development of empathy. According to Davis (1994), empathy, which is represented by the ability to take another's perspective, is associated with a decrease in the frequency of aggressive and antisocial responses directed toward that group. The

development of programs to increase empathy has been proposed as a potential method for reducing prejudice (Aronson, 1992). Promoting empathy is already an important component of victim-offender mediation. Through listening to the victim's story, the offender gains insight into their unique perspective, learning about the impact of the crime on the victim. In addition, the process of writing a retribution agreement prompts both parties to accurately consider the needs of the other individual.

Although victim-offender mediation is an approach that offers potential benefits for all those involved, it may be limited in some ways. First, for perpetrators involvement in mediation is never completely voluntary, potentially exerting a negative effect on their attitude toward the process. Second, victims of hate crime, given the uniquely personal impact of the offense, may experience more difficulty in facing their perpetrator than non-bias crime victims. Finally, given the strong emotional charge associated with issues of racism generally, and hate crime in particular, victim-offender mediation with this population may place greater demands on the skills of the mediator.

In summary, hate crime represents a social problem that deeply and personally impacts those involved. In addition to the harm inflicted on the individual victim, hate crime is an act of terrorism that threatens the development of positive intergroup relationships and undermines efforts to promote tolerance and appreciation of group differences. Recently, more attention has been given to understanding the unique impact of such offenses, identifying the factors that promote such acts of violence, and developing effective interventions to deal with hate crime. While these responses may be helpful in some ways, their effectiveness in producing the desired attitudinal and behavioral changes in offenders is questionable. In addition, these alternatives do little or nothing to address the needs of victims. Given these problems with the current responses to hate crime, victim-offender mediation has been offered as a more effective means of

addressing this issue. While there is no research on victim-offender mediation with hate crime, this approach appears to be well supported by theory. Further, the victim-offender mediation approach has demonstrated utility with adolescent offenders, benefiting both the victim and perpetrator, as well as larger society.

In conclusion, it is not expected that the victim-offender mediation approach will be a "one size fits all" intervention. At the same time, there are currently few programs that appear to adequately address the needs of both victims and offenders of hate crime. Therefore, it is imperative that research be directed toward developing alternative programming to address this issue. In addition to programs that are mainly reactive, such as the victim-offender approach, there is a continued need for primary prevention. Beyond research, hate crime is an issue meriting increased political activism.

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